

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action mailed June 10, 2005. At the time of the Office Action, Claims 1-47 were pending in the Application. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

Section 103 Rejections

The Examiner rejects Claims 1-7, 12-18, 23-29, 34, and 36-43 under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,512,746 issued to Sand (hereinafter "*Sand*"). The Examiner rejects Claims 8-11, 19-22, 30-33, 35, and 44-47 under 35 U.S.C. §103(a), as being unpatentable over *Sand* in view of U.S. Patent No. 6,363,065 issued to Thornton, et al. (hereinafter "*Thornton*").

To defeat a patent under 35 U.S.C. §103, the claimed *combination* must be obvious. *Kimberly-Clark Corp. v. Johnson & Johnson*, 745 F.2d 1437, 223 U.S.P.Q. 603 (Fed. Cir. 1984). Therefore, it is essential to view the invention as a whole, taking each element into account as well as the advantages, properties, utilities, and results of the invention. *In re Chupp*, 816 F.2d 643, 2 U.S.P.Q.2d 1437 (Fed. Cir. 1987). An Examiner must show, among other things, some suggestion or motivation to modify the reference or to combine reference teachings. M.P.E.P. §2142. Furthermore, an Examiner must consider a prior art reference in its entirety, including portions that would lead away from the claimed invention. M.P.E.P. §2141.02.

The Examiner rejects Claim 1 under 35 U.S.C. §103(a) as being unpatentable over *Sand*. Applicants respectfully submit that *Sand* does not disclose, teach, or suggest each limitation of Claim 1. For example, *Sand* does not disclose, teach, or suggest "receiving a signal from a user to initiate logging of quality information" as recited in Claim 1. *Sand* does not disclose receiving a signal from a user, but discloses measuring voice grade of service associated with an Internet Protocol (IP) telephony apparatus by internally recognizing flow and protocol types. *Sand* does not suggest interaction with a user, but operates independently of a user. Additionally, *Sand* does not disclose, teach, or suggest "collecting, in response to the signal, voice samples from the voice connection at the endpoint" as recited in Claim 1. Instead, *Sand* discloses collecting IP voice datagrams "by recognizing the flow and protocol

types.” Collecting the IP voice datagrams in *Sand* does not occur in response to a signal from a user. For at least these reasons, *Sand* does not disclose, teach, or suggest each limitation of Applicants’ Claim 1. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claim 1 together with its dependents.

Independent Claims 12, 23, 34, and 38 recite certain limitations that, for reasons substantially similar to those discussed with reference to independent Claim 1, are not disclosed, taught, or suggested, either expressly or inherently, by *Sand*. Therefore, Applicants respectfully request reconsideration and allowance of Claims 12, 23, 34, and 38 together with their dependents.

Claims 2-7, 13-18, 24-29, 36-37, and 39-43 incorporate limitations of their respective independent claims, which Applicants have shown above to be allowable. For at least this reason, Claims 2-7, 13-18, 24-29, 36-37, and 39-43 are allowable over the prior art.

The Examiner rejects Claims 8-11, 19-22, 30-33, 35, and 44-47 as being unpatentable over *Sand* in view of *Thornton*. Applicants respectfully submit that the combination fails to disclose, teach, or suggest the limitations recited in Applicants’ claims.

First, Claims 8-11, 19-22, 30-33, 35, and 44-47 incorporate limitations of their respective independent claims, which Applicants have shown above to be allowable. For at least this reason, Claims 8-11, 19-22, 30-33, 35, and 44-47 are allowable over the prior art.

Second, as discussed above, *Sand* fails to disclose, teach, or suggest “receiving a signal from a user to initiate logging of quality information” or “collecting, in response to the signal, voice samples from the voice connection at the endpoint” as recited in Claim 1. Combining *Sand* and *Thornton* does not cure these deficiencies. Accordingly, Applicants respectfully request reconsideration and allowance of Claims 8-11 because they depend from Claim 1, which has been shown to be allowable.

Similarly, independent Claims 12, 23, 34, and 38 incorporate limitations that *Sand* fails to disclose, teach, or suggest similar to those discussed with reference to independent Claim 1. The combination of *Sand* and *Thornton* falls short of disclosing, teaching, or suggesting each and every limitation recited in Applicants’ claims. Therefore, Applicants respectfully request reconsideration and allowance of Claims 19-22, 30-33, 35, and 44-47 because they depend from Claims 12, 23, 34, and 38, which have been shown as allowable.

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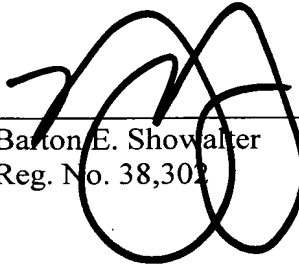
CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of the pending claims.

Applicant submits herewith a check in the amount of \$790.00 to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e). If this is not correct, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicants invite the Examiner to contact its attorney, Barton E. Showalter, at (214) 953-6509.

Respectfully submitted,
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